

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Masumi SUETSUGU et al.

Application No.: 10/664,355

Confirmation No.: 8070

Filed: September 17, 2003

Art Unit: 1752

For: A NEGATIVE TYPE RESIST COMPOSITION

Examiner: C. H. Kelly

**PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER  
37 CFR 1.137(b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the USPTO Decision on Petition dated August 27, 2007, as well as the Notice of Abandonment dated May 23, 2007, this is a Petition requesting revival of the above-identified Reissue Application. The required submissions under 37 CFR 1.137(b) would include:

- (1) the reply required to the outstanding Office Action;
- (2) the petition fee under 37 CFR 1.17(m);
- (3) an appropriate statement that the entire delay in filing the required reply was unintentional; and
- (4) any Terminal Disclaimer required under 37 CFR 1.137(d).

**(1) Reply to Office Action**

Pursuant to 37 CFR 1.137(b)(1), enclosed with this Petition is: [1] an Amendment in Response to Final Office Action, [2] a Supplemental Declaration signed by the Inventors, and [3] a Request for Continued Examination which is submitted in order to ensure entry and consideration of the items [1] and [2]. Since Applicant did not receive any explanation in writing regarding the deficiencies of the earlier-submitted Amendment timely filed on July 10, 2006, and since Applicant has not yet received any clarification in writing concerning the deficiencies in this Amendment, the claim changes and remarks submitted with the present Amendment are based on an oral explanation by supervisory Patent Examiner Kathleen Tierney who kindly reviewed this matter with Applicant's representative over the telephone in September. Examiner Tierney pointed out some formal errors in the claim changes submitted with the deficient Amendment of July 10, 2006, and these errors have been appropriately corrected in the presently submitted Amendment. Examiner Tierney also pointed out the requirement of submitting a Supplemental Declaration signed by the Inventors. These requirements were not communicated to Applicant's representative until Examiner Tierney was reached on the telephone during the week of September 24, 2007. Thanks are extended to Examiner Tierney for clarifying the present situation.

If any additional deficiencies exist, it is respectfully requested that these deficiencies be clearly identified and that an appropriate explanation in writing be issued so that Applicant has an appropriate chance to address any such potential deficiencies. It is submitted that, based on the information presently available to Applicant, the requirement for submitting a reply to the last-issued Office Action of February 8, 2006, as well as a subsequent Advisory Action issued on May 26, 2006.

**(2) Petition Fee**

In accordance with 37 CFR 1.137(b)(2), submitted with this Petition is the petition fee of \$1540.00.

**(3) Statement that Entire Delay was Unintentional**

It is respectfully submitted that the entire delay in filing the present Petition was unintentional. First, it is noted, as discussed above, that no USPTO communication has issued which explains in writing the deficiencies of the Amendment filed July 10, 2007. Thus, until the week of September 24, 2007, Applicant's representative did not receive any explanation as to these deficiencies. Second, it is submitted that Applicant's representative earnestly attempted to monitor the status of the present application and to discover the deficiencies of the Amendment filed July 10<sup>th</sup>. For example, Applicant's representative contacted the patent examiner previously handling the present application and was informed several times that the application was in condition for allowance. In fact, the USPTO PAIR information indicated that the application was "allowed" but a Notice of Allowance had not yet been mailed as early as August 7, 2006 and as late as November 29, 2006. The status of PAIR changed late in 2006 or early in 2007 and the Examiner handling the present application also changed. More telephone calls were made and a Status Inquiry was thereafter filed on March 23, 2007, before a Notice of Abandonment issued on May 23, 2007. Subsequently, a Petition to Withdraw Abandonment was filed, since Applicant's representative believed that the Amendment of July 10, 2006 was not deficient since no written communication explaining any deficiencies had issued any since the responses by the Patent Examiner over the telephone did not indicate any deficiencies. Consequently, it is submitted that the entire delay in the filing of the present grantable Petition was unintentional.

**(4) No Terminal Disclaimer Required**

Pursuant to 37 CFR 1.137(d)(3) it is submitted that the present application is a Reissue Application, such that the requirements concerning the filing of a Terminal Disclaimer under 37 CFR 1.137(d)(4) do not apply to the present situation.

### Conclusion


It is submitted in view of the above-statements and facts that the present Petition should be granted. Alternatively, if any additional deficiencies are identified, it is respectfully requested that all such deficiencies be explained clearly in writing and that Applicant be given the opportunity to address any such deficiencies within a reasonable amount of time.

If any questions arise in the above matters, please contact Applicant's representative, Andrew D. Meikle (Reg. No. 32,868), in the Washington Metropolitan Area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: October 29, 2007

Respectfully submitted,

By   
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